IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.2654/07
Sushila Sharma Vs. The Post Master General & Ors.

13.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Dr. Y.C. Sharma for petitioner.

The petitioner has filed this writ petition against the refusal by the Post Master General, Post Office, M.I. Road, Jaipur to make payment of the amount of monthly income scheme in the name of her late husband Ramesh Kumar Sharma. The post office by their letter dated 8.2.2006 and 28.3.2007 informed the petitioner that the late husband of the petitioner has nominated Shri Dev Vrat Sharma, who it appears is his nephew, as the nominee to receive maturity amount of

monthly income scheme. It was advised that the petitioner should get her entitlement declared from the appropriate civil Court. Learned counsel referred to Rule 11 of the Post Office Saving Bank Account Rules, 1981 which inter alia provides as under:-

> *"Depositor are advised to make nomination either at the time of opening of account or at any time thereafter as it helps the nominee to receive the amount of credit after the death of depositor without production of legal documents. Nomination once made can be cancelled or varied by the depositor by giving an application. Nomination is valid only if it is registered with the head post office. Particulars of registration are printed in the passbook."*

Referring to the last part of the

said Rule, it is argued that if the particulars of the nomination not entered in the pass book, it would not be valid.

Having carefully interpreted the aforesaid provision I find that according to said Rule, nomination can be made not only at the time of opening of the account but also at any time thereafter. The pass book which the learned counsel produced before this Court of course does not contain the entry with regard to nomination but that is possibly because in the instant case nomination appears to have been made subsequent to the opening of the account. When the postal authorities have informed to the petitioner that the nomination has been made in favour of respondent no.3, there is no reason not to believe their

version. Moreover, learned counsel is reading the last sentences together whereas they are two different and distinct sentences. While in the first sentence, it is stated “nomination is valid only if it is registered with the head post office” and the second sentence which is an independent sentence states that “particulars of registration are printed in the passbook.”

In the facts and circumstances of the case, the dispute therefore essentially remains with the petitioner on the one hand and the private respondent no.3 on the other. This therefore does not appear to be a matter in which this Court should interfere in its extra ordinary jurisdiction under Article 226 of the Constitution of India.

The appropriate remedy for the petitioner would be to approach the competent Civil Court to get her rights determined.

With these observations, the writ petition is dismissed as not maintainable.

(Mohammad Rafiq),J.

Rs/-